



# MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR  
4.563

CHAPTER Program Implementation and Records	SUBCHAPTER Transfer/Direct Admission Procedures	EFFECTIVE DATE July 1, 2008	NUMBER OF PAGES 5	PAGE NUMBER 1 of 5
SUBJECT Hearings for Transfer/Direct Admission of Minor to Adult Wards		AUTHORITY Section 630.050, RSMo	HISTORY See Below	
PERSON RESPONSIBLE Director, CPS			SUNSET DATE: July 1, 2011	

**PURPOSE:** Prescribes policy regarding hearings for minors being transferred or directly admitted to adult wards as required by section 632.370, RSMo.

**APPLICATION:** Applies to facilities of the Division of Comprehensive Psychiatric Services.

(1) Minors recommended for transfer or directly admitted to adult wards under section (7) of this DOR, or minors transferred or directly admitted to adult wards under section (8) of this DOR, or minors otherwise transferred or directly admitted to adult wards shall be provided due process hearings as set forth in this DOR.

(2) For the purposes of this DOR the following definitions apply:

(A) "Minor," any person under the age of eighteen years. This definition includes persons under the age of eighteen who are certified by the juvenile/family courts to stand trial as an adult following the alleged commission of a crime and excludes persons whose minority status has been extended by the juvenile family courts beyond the age of 18.

(B) "Coordinator of Children and Youth Services," the individual appointed by the Director of the Division of Comprehensive Psychiatric Services to provide policy leadership and program oversight for children and youth services through the division.

(C) "Receiving facility," the facility that has the adult unit to which the minor is to be, or has been, transferred or admitted.

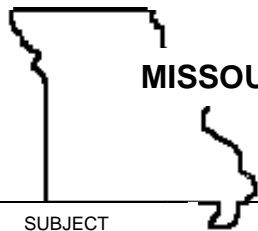
(D) "Referring facility," the facility requesting the transfer of or admission of a minor to an adult treatment setting whether or not the minor was ever admitted to the children's hospital system.

(E) "Appropriate transfer or admission," the receiving facility has the resources to effectively provide for a minor's developmental needs, including medical, educational, psychiatric and safety needs.

(F) "Necessary transfer or admission," when the referring facility cannot effectively provide for medical needs, psychiatric needs, and safety needs of the minor patient, and for the safety of other patients, staff or the general public.

(G) "Required parties," the minor, the minor's parents, guardian or other legal custodian, the minor's last known attorney of record, all courts maintaining jurisdiction, the assistant general counsel for the referring facility and the proposed receiving facility, and the Children and Youth Area Director.

(3) A facility may transfer or admit a minor to an adult ward only if the transfer or admission is necessary and appropriate as defined in subsections (2)(E) and (2)(F) of



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this DOR. The head of the referring facility shall have the burden to document that the transfer or direct admission is necessary and appropriate.

(4) Emergency Transfer Criteria: The head of the referring facility may transfer a minor to an adult ward without a pre-transfer hearing only if special circumstances require the immediate transfer and a pre-transfer hearing is not feasible. The head of the referring facility shall document in the minor's medical record the special circumstances which caused the transfer and has the burden to show an emergency transfer is necessary and appropriate.

(5) The hearings required by this DOR shall be conducted by the hearings administrator for the Department of Mental Health or his/her designee. The hearings administrator shall not be an employee of the referring or receiving facility.

(6) Before any pre- or post-transfer or direct admission hearing, the treatment team of the receiving adult unit shall review the minor's current status and recommend on the appropriateness of the transfer or direct admission in meeting the needs of the minor and public safety in consultation with the children's hospital system. The team's evaluation and recommendation shall be filed in the minor's medical record and be presented to the hearings administrator at the hearing.

(7) Pre-Transfer Hearing Process: The head of the referring facility may apply for a pre-transfer hearing on DMH Form "Application for Transfer Hearing for Minor Transferred To Adult Ward" to the Coordinator of Children and Youth Services or his/her designee. The Coordinator (or designee) shall approve or deny the application for a pre-transfer hearing.

(A) The Coordinator (or designee) will determine if a hearing will be granted within three (3) working days of receipt of the application and notify the hearings administrator and referring facility of said decision;

(B) If approved, the hearings administrator shall set the date, time and location of the hearing, which should be within five (5) working days of the Coordinator's approval of a hearing and notify the referring facility;

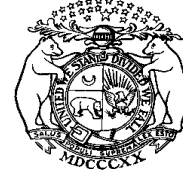
(C) The head of the referring facility shall provide written notification to the required parties at least two (2) working days before a pre-transfer hearing of the time, date, place and reasons for the transfer.

(D) If the application for a pre-transfer hearing is denied by the Coordinator, the minor shall not be transferred.

(8) Post-Transfer or Direct Admission Hearing Process: In the case of a post-transfer the head of the referring facility shall request a post-transfer hearing for any minor immediately transferred to an adult ward. In the case of a direct admission, the head of the receiving facility shall request a hearing for any minor directly admitted to an adult ward. The Post-Transfer process applies whenever a minor is admitted onto an adult unit. In the case of a transfer the head of the referring facility shall contact the



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Coordinator within twenty-four (24) hours following the transfer using DMH Form "Application for Transfer or Direct Admission Hearing for Minor Transferred/Admitted to Adult Unit" (excluding Saturdays, Sundays and legal holidays observed by the department). In the case of a direct admission the head of the receiving facility shall contact the Coordinator within twenty-four (24) hours following the admission using DMH Form "Application for Transfer or Direct Admission Hearing for Minor Transferred/Admitted to Adult Unit" (excluding Saturdays, Sundays and legal holidays observed by the department). In a direct admission the receiving facility shall notify the hearings administrator. Additionally, the referring facility shall notify the hearings administrator and receiving facility in a post-transfer.

(A) The hearings administrator is to arrange a date, time and location for the hearing and notify the receiving facility;

(B) The hearing shall be held within five (5) working days following the transfer/admission unless a continuance is requested by the minor, the minor's parents, legal custodian or the minor's attorney and the request is approved by the hearings administrator;

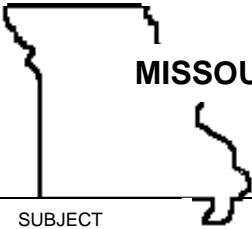
(C) The head of the referring facility in a post-transfer shall provide written notification to the required parties at least two (2) working days before a post-transfer hearing of the time, date, place and reasons for transfer. The head of the receiving facility in a direct admission shall provide written notification to the required parties at least two (2) working days before a hearing of the time, date, place and reasons for admission.

(9) During either the pre- or post-transfer or direct admission hearing, the minor, the minor's guardian, and/or the minor's legal representative shall be allowed to attend the transfer hearing, present information and question witnesses.

(10) The hearings administrator shall decide whether the minor shall be transferred or, if the minor is already on an adult unit, whether the minor shall remain on the adult ward. Within four (4) working days following the hearing, the hearings administrator shall submit written findings of fact, conclusions, and decision as to the necessity and appropriateness of the transfer, admission, or proposed transfer to the director of the Division of CPS, Coordinator, Clinical Director for Children, Youth and Families and all required parties.

(11) The referring facility shall notify, in writing, any court of competent jurisdiction of the outcome of the transfer hearing noting the facility name, address and contact where the minor is currently in treatment.

(12) A copy of the hearings administrator's finding of fact, conclusion, and decision regarding the transfer or direct admission and right to appeal shall be filed in the minor's medical record. Copies and notice of right to appeal shall be given to all required parties.



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(13) Appeal Process: A minor's legal guardian or attorney may request the director of the Department, or designee, to review the decision of the hearings administrator.

(A) The minor's guardian or attorney may request, in writing, the review within ten (10) working days following receipt of the decision of the hearings administrator and give the request to the head of the facility where the minor is currently admitted.

(B) Upon receiving notice of the written request, the head of the facility where the minor is currently admitted shall notify the Department Director's office and transfer copies of documents in the minor's medical record related to the appropriateness and reasons for the transfer or direct admission to the Department Director or designee;

(C) During the review, the Department Director, or designee, may receive additional written information on the behalf of the minor, the referring facility and/or the receiving facility.

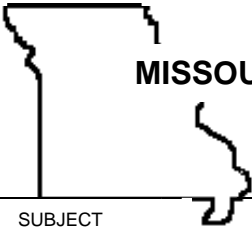
(D) Within seven (7) working days after receiving the minor's medical record, the Department Director, or designee, shall sustain or overrule the decision of the hearings administrator. The decision of the Department Director, or designee, shall be final and documented on DMH Form, "Review Decision by Department Director."

(E) The head of the facility where the minor is currently admitted shall have the decision of the Department Director filed in the minor's medical record and give notice to all required parties.

(14) If a minor has been admitted to an adult unit, the Children and Youth Area Director or designee in the region of the adult facility shall be notified by the referring facility to assist in monitoring that youth and assuring his/her needs are being met, including but not limited to educational needs, and facilitate provision of any specialized consultation or services with the adult facility that may be needed to specifically address the developmental needs of that youth.

(15) When a minor has been transferred or admitted to an adult facility, the necessity and appropriateness of that placement should be reviewed and documented within each treatment plan review at least within 14 days of admission for an initial and every 30 days thereafter as required in 42 CFR, Sections 441.154 and 441.155.

(16) If a minor has been transferred or directly admitted to an adult unit, and the treatment team of the adult unit feels the minor may now be appropriate for transfer back to a youth treatment setting, the adult unit treatment team shall conduct a joint staffing with the children's hospital system. If a decision is mutually agreed upon, the decision should be documented in the minor's chart and appropriate action taken, with all required parties notified including any court of competent jurisdiction. If a mutually agreed upon decision cannot be reached, the case should be presented to the Coordinator (or designee) to provide the final decision.



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(17) The heads of the mental health referring and receiving facilities where a minor is involved shall ensure that all appropriate staff are trained regarding the policies and procedures contained in this DOR. Likewise, the head of the facility shall maintain appropriate documentation regarding the implementation of the policies and procedures contained in this DOR.

*History: Original DOR effective February 15, 1982. Amendment effective July 1, 1999. On July 1, 2003 the sunset date was extended to July 1, 2004. Amendment effective November 1, 2004. On July 1, 2008 the sunset date was extended to July 1, 2011.*